

Court of Appeals, State of Michigan

ORDER

Parnell Seaton-El v Department of Corrections

Docket No. 352893

LC No. 18-014700-AA

Cynthia Diane Stephens
Presiding Judge

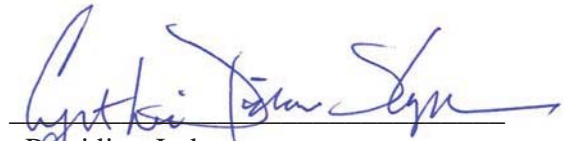
Kirsten Frank Kelly

Anica Letica
Judges

The motion to waive fees is GRANTED for this case only.

Pursuant to MCR 7.205(E)(2), the circuit court's October 17, 2019 order is VACATED, and the matter REMANDED for further proceedings. The circuit court erred to the extent it concluded that MCR 7.113(A), and specifically, the time limit contained in MCR 7.113(A)(2), had any bearing on appellant's motion for relief from judgment. MCR 7.113(A) applies to appeals that are involuntarily dismissed for failure to pursue the appeal in conformity with the rules. In this case, the appeal was dismissed for lack of jurisdiction. MCR 7.113(A) is not applicable to such a dismissal order. The circuit court's decision also fails to address the key issue raised by appellant's motion, which is whether the court clerk erred by twice rejecting appellant's claim of appeal before finally accepting it on November 14, 2018. We thus remand the matter to the circuit court to determine whether (1) the court clerk erred by rejecting the claim of appeal in a letter dated October 1, 2018, for failure to comply with MCR 1.109(D)(2)(a)(i) and (ii), where appellant filed a claim of appeal, see MCR 7.104(C)(1) and MCR 8.119(C); (2) whether the clerk erred by again rejecting appellant's pleadings due to an alleged "inconsistency" in certain documents on October 19, 2018, see MCR 8.119(C), and (3) if the clerk did err in one or both respects, whether appellant is entitled to relief from the December 7, 2018 order of dismissal pursuant to any provision of MCR 2.612(C)(1).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.


Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

August 11, 2020

Date


Chief Clerk